

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

BRANDON TIMMONS,
Plaintiff

v.

CO ISSAC, et al.,
Defendants

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No. 1:20-cv-02035

(Judge Kane)

ORDER

AND NOW, on this 20th day of January 2023, in accordance with the Memorandum issued concurrently with this Order, **IT IS ORDERED THAT:**

1. Defendants' motions to dismiss (Doc. Nos. 125, 127, 130) Plaintiff's fourth amended complaint are **GRANTED IN PART AND DENIED IN PART AS MOOT**;
2. Plaintiff's civil conspiracy claim, his claims against Defendant Tomcavage, and his retaliation, cruel and unusual punishment, intentional infliction of emotional distress, and campaign harassment claims arising from his underlying criminal conviction (Counts 13, 17-19, 22) are **DISMISSED** without further leave to amend;
3. Plaintiff's retaliation claims arising from the filing of grievances and complaints connected to this lawsuit (Counts 9-10, 13-14) are **DISMISSED WITHOUT PREJUDICE**;
4. The Clerk of Court is directed to open a new case with respect to Plaintiff's excessive force and failure to treat claims against Defendants Edmonds, Simpson, Warford, and the John Doe Defendant, the other Eighth Amendment claims against these Defendants, and Simpson's purported failure to file a PREA complaint on Timmons's behalf (Counts 1, 2, 4-5, 8, 11). The caption of this new case shall be Timmons v. Edmonds, Simpson, Warford, and John Doe;
5. The Clerk of Court is directed to open a new case with respect to Plaintiff's claims of excessive force against Defendant Burgess and his related claims of failure to provide medical care by Defendants Prince and Lux (Counts 3, 6-7, 20-21). The caption of this new case shall be Timmons v. Burgess, Prince, and Lux;
6. The Clerk of Court is directed to open a new case with respect to Plaintiff's claim arising from his placement in a cold cell without a mattress or a blanket by Defendant Dempsey (Count 12). The caption of this new case shall be Timmons v. Dempsey;

7. The Clerk of Court is directed to open a new case with respect to Plaintiff's claim that Defendant Brittain denied Attorney Carriere conferences and that Brittain and other supervisory Defendants failed to protect Plaintiff (Count 17). The caption of this new case shall be Timmons v. Brittain, Wetzel, Wynder, Harold, and Kerestes;
8. The Clerk of Court is directed to open a new case with respect to Plaintiff's claim that Defendant Wynder failed to file a grievance on Plaintiff's behalf (Count 16). The caption of this new case shall be Timmons v. Wynder;
9. The Clerk of Court is directed to docket this Order and the accompanying Memorandum as Documents 1 and 2 in each of the new cases specified in Paragraphs 4-8 of this Order. No complaint shall be docketed in the new cases at this time;
10. The Clerk of Court is directed to issue a 30-day administrative order in each of the new cases specified in Paragraphs 4-8 of this Order requiring Plaintiff to pay the requisite filing fee or move for leave to proceed in forma pauperis within thirty days;
11. Failure to comply with the thirty-day administrative order will result in dismissal of the associated new case without prejudice;
12. Plaintiff is directed to file an amended complaint in each of the new cases specified in Paragraphs 4-8 of this Order within sixty (60) days of the date of this Order. The amended complaint in each case shall be limited to the facts specified in Paragraphs 4-8 of this Order and Section III.A of the accompanying Memorandum. Factual allegations outside those parameters will be dismissed;
13. Failure to file an amended complaint will result in dismissal of the associated new case with prejudice for failure to prosecute;
14. The motions to dismiss are **DENIED AS MOOT** in all other respects;
15. The Clerk of Court is directed to **CLOSE** this case; and
16. Because all claims that were properly joined in this action have been dismissed for failure to state a claim upon which relief may be granted, this dismissal should be construed as a strike pursuant to the Prison Litigation Reform Act.

s/ Yvette Kane
Yvette Kane, District Judge
United States District Court
Middle District of Pennsylvania